

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

---

THOMAS R. MERTZ,

Plaintiff,

Hon. Paul L. Maloney

v.

Case No. 1:18-cv-1392

BYRON CENTER PUBLIC SCHOOLS,  
et al.,

Defendants.

---

**REPORT AND RECOMMENDATION**

On May 19, 2021, the undersigned judicial officer conducted a hearing on Defendants' motion to enforce the settlement agreement. (*See* Minutes, ECF No. 84). Plaintiff, having conceded that he entered into a valid, enforceable settlement agreement on February 5, 2021, and based on the record evidence, the undersigned found that the parties settled all the claims in this case as of that date. (*See* Order, ECF No. 85). Further, the undersigned found that the settlement agreement signed by Defendants on April 12, 2021 (ECF No. 72-1) accurately reflects the terms of the February 5 settlement agreement between the parties (as documented by ECF No. 72-2). (ECF No. 85, PageID.2622). That written settlement agreement is now the operative agreement. (*See id.*).

Accordingly, the undersigned judicial officer recommends that the Court dismiss this case with prejudice, as there is no remaining claim to adjudicate. FED. R. CIV. P. 41(a)(2). The undersigned further recommends that the Court not retain jurisdiction to consider potential claims of breach of that contract. *Cf. Hehl v. City of Avon Lake*, 90 F. App'x 797, 801 (6th Cir., Jan. 20, 2004) (In order to retain jurisdiction to enforce a settlement agreement after dismissal, a district court must either so indicate that retention or incorporate the terms of the settlement agreement into the dismissal order.).

OBJECTIONS to this Report and Recommendation must be filed with the Clerk of Court within fourteen days of the date of service of this notice. 28 U.S.C. § 636(b)(1)(C). Failure to file objections within the specified time waives the right to appeal the District Court's order. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir.1981).

Respectfully submitted,

Date: May 20, 2021

/s/ Phillip J. Green  
PHILLIP J. GREEN  
United States Magistrate Judge